

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DAWON A. WORDLAW, on behalf of herself
and all others similarly situated,

Plaintiffs,

v.

ENTERPRISE LEASING COMPANY OF
CHICAGO, LLC; ENTERPRISE HOLDINGS,
INC.,

Defendants.

Case No. 20-cv-03200

Hon. Manish S. Shah

Hon. Magistrate Gabriel A. Fuentes

**DEFENDANTS ENTERPRISE LEASING COMPANY OF CHICAGO, LLC AND
ENTERPRISE HOLDINGS, INC.’S MOTION, IN THE ALTERNATIVE, TO CERTIFY
QUESTIONS FOR APPEAL AND STAY PROCEEDINGS PENDING APPEAL**

Defendants Enterprise Leasing Company of Chicago, LLC and Enterprise Holdings, Inc. (collectively, “Defendants”) respectfully move pursuant to Fed. R. Civ. P. 54 for the Court to reconsider its December 21, 2020 Memorandum Opinion and Order (“Order,” ECF No. 30) and enter an order dismissing Plaintiff’s Amended Complaint.

In the alternative to Defendants’ Motion For Reconsideration, Defendants respectfully move for the Court to amend the Court’s Order to certify the following questions for appeal pursuant to Fed. R. App. P. 5(a) and 28 U.S.C. § 1292(b) for the reasons stated in the accompanying Memorandum of Law.

1. Whether a joint employer theory of liability is available under Sections 15(a), 15(b) or 15(d) of the Illinois Biometric Information Privacy Act, 740 ILCS 14/1 *et seq.* (“BIPA”).
2. Whether a direct participation theory of liability is available under Sections 15(a), 15(b) or 15(d) of BIPA.

3. Whether general allegations related to a holding company's purported "control" over subsidiary employees' "work environment," including "employee timekeeping, employee privacy, employee discipline, and the scope of acceptable employee behavior" are sufficient to plausibly state a claim that a private entity directly violated BIPA.
4. If the answer to Questions 1 and/or 2 above are "yes," whether general allegations related to a holding company's purported "control" over subsidiary employees' "work environment," including "employee timekeeping, employee privacy, employee discipline, and the scope of acceptable employee behavior" are sufficient to plausibly state a claim that a private entity is liable under BIPA through joint-employer or direct participant theories.

DATED: January 20, 2021

Respectfully submitted,

ENTERPRISE LEASING COMPANY OF
CHICAGO, LLC and ENTERPRISE
HOLDINGS, INC.

By /s/ Thomas E. Ahlering

One of Their Attorneys

Erin Dougherty Foley
edfoley@seyfarth.com
Thomas E. Ahlering
tahlering@seyfarth.com
Alexandra S. Oxyer
aoxyer@seyfarth.com
SEYFARTH SHAW LLP
233 S. Wacker Dr., Suite 8000
Chicago, Illinois 60606
Telephone: 312-460-5000
Facsimile: 312-460-7000

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of January, 2021, a true and correct copy of the foregoing document was filed with the Clerk of Court by using the CM/ECF system which will send notification to the e-mail addresses of all counsel of record denoted on the electronic Mail Notice List.

/s/Thomas E. Ahlering
Thomas E. Ahlering